

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JAMES LEACH,	)	
	)	
Movant,	)	
	)	
v.	)	No. 4:10CV2384 RWS
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before me on movant’s motion to produce evidence, motion to produce transcripts, motion to proceed in forma pauperis, and motion to expand the record.

1.     Motion to Produce Evidence

In his motion to produce evidence, movant seeks a letter from his former counsel dated November 2010 in which counsel apparently stated he no longer had a duty to represent movant and would not assist movant with filing a § 2255 motion. Movant also seeks a copy of the search warrant from his criminal action.

I will deny the motion. Movant’s appointed counsel did not have a statutory duty to assist him with preparing a § 2255 motion. 18 U.S.C. § 3006A (a)(2)(B). And movant’s Fourth Amendment claim appears to be procedurally barred.

2.     Motion to Produce Transcripts and Motion to Proceed IFP

A prisoner has no absolute right to a transcript to assist him in the preparation of a collateral attack on his conviction, and constitutional requirements are met by

providing such materials only after judicial certification that they are required to decide the issues presented by a non-frivolous pending case. United States v. Lewis, 605 F.2d 379, 379 (8th Cir. 1979) (citing United States v. MacCollom, 426 U.S. 317 (1976)). I have reviewed the § 2255 motion and the government's response. At this point, I will not certify that the issues raised in the motion are non-frivolous. As a result, I will deny the motion for transcripts. For this reason, I find the motion to proceed in forma pauperis to be moot.

3. Motion to Expand the Record

Movant seeks to expand the record by adding an exhibit purporting to assert that his counsel did not attend the presentence investigation report hearing. The exhibit is not admissible evidence because it is not a proper affidavit. As a result, the motion will be denied.

Accordingly,

**IT IS HEREBY ORDERED** that movant's motion to produce evidence [Doc. 15], motion to produce transcripts [Doc. 23], motion to proceed in forma pauperis [Doc. 24], and motion to expand the record [Doc. 27] are **DENIED**.

Dated this 18th day of June, 2012.



---

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE